



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, DC 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/368,378	01/14/95	BOVA	94247

PETER J. MANSO  
JENKENS & GILCHRIST  
1445 ROSS AVENUE  
SUITE 3200  
DALLAS TX 77002

19M1/0826

EXAMINER  
VENKAT, J

ART UNIT	PAPER NUMBER
1931	29

DATE MAILED: 08/26/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
**08/368,378**

Applicant(s)  
**BOVA**

Examiner  
**JYOTHSNA VENKAT**

Group Art Unit  
**1931**



☒ Responsive to communication(s) filed on Aug 4, 1997

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-9 and 15-18 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-9 and 15-18 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 21,25

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1931

### DETAILED ACTION

Receipt is acknowledged of supplemental prior art , change of address , letter regarding fee , amendment D and prior art filed on 7/10/97,7/18/97 and 8/4/97 .

The amendment canceled claims 13-14 and added claims 16-18 . Claims 1-9 and 15-18 are pending in the application . The status of the application is as follows :

#### *Claim Rejections - 35 U.S.C. § 102*

1. Claims 1-9 and 15-18 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S.Patent , 5,268,181 (181).

See claims 1-11 , see col.2 , lines 35 et seq , see col.3 , lines 30-65 , see line 67 for “ controlled release “ . See col. 4 , for the cellulose derivatives claimed by the applicants , see the dosage range , see claims for PVP , see col.4 , lines 57-61 for the lubricating agent .

The 131 declaration filed is unpersuasive as the rejection can be overcome only by interference proceedings .

**Applicant is also advised that an affidavit under 37 CFR 1.608 (b) or evidence and an explanation under 37 CFR 1.608(b) , must be submitted . Applicants attention is drawn to MPEP 2308.01, page 2300-20 , col.2 , 3 rd paragraph for the procedure .**

For the purposes of the interference the count is claim 1 of the patent or claim 1 of the application or claim 15 of the application .

Art Unit: 1931

Paper no.3 is drawn to the same rejection and it is not new ground of rejection and therefore this action is made final

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Venkat whose telephone number is (703)306-3495. The examiner can normally be reached on Monday-Friday from 9:30 a.m.-5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (703)306-3484. The fax phone number for this group is (703)308-4363.

Application/Control Number: 08/368,378

Page 4

Art Unit: 1931

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703)306-3486.



Jyothsna Venkat, Ph. D.

**Primary Examiner**

**Art Unit 1931**

J. Venkat

August 24, 1998